

**Department of Health Care Services  
Proposed Trailer Bill Language  
Issue 631**

**Administrative Fines and Penalties**

**Section 1341.45 of the Health and Safety Code is amended to read:**

**1341.45.** (a) There is hereby created in the State Treasury the Managed Care Administrative Fines and Penalties Fund.

(b) The fines and administrative penalties collected pursuant to this chapter, on and after September 30, 2008, shall be deposited into the Managed Care Administrative Fines and Penalties Fund.

(c) The fines and administrative penalties deposited into the Managed Care Administrative Fines and Penalties Fund shall be transferred by the department, beginning September 1, 2009, and annually thereafter, as follows:

(1) The first one million dollars (\$1,000,000) shall be transferred to the Medically Underserved Account for Physicians within the Health Professions Education Fund and shall, upon appropriation by the Legislature, be used for the purposes of the Steven M. Thompson Physician Corps Loan Repayment Program, as specified in Article 5 (commencing with Section 128550) or Chapter 5 of Part 3 of Division 107 and, notwithstanding Section 128555, shall not be used to provide funding for the Physician Volunteer Program.

(2) Any amount over the first one million dollars (\$1,000,000), including accrued interest, in the fund shall be transferred to the Major Risk Medical Insurance Fund ~~continued pursuant to Section 15893 of the Welfare and Institutions Code and shall, upon appropriation by the Legislature, be used for the Major Risk Medical Insurance Program~~ for the purposes specified in Section ~~15893~~ **15894** of the Welfare and Institutions Code.

(d) Notwithstanding subdivision (b) of Section 1356 and Section 1356.1, the fines and administrative penalties authorized pursuant to this chapter shall not be used to reduce the assessments imposed on health care service plans pursuant to Section 1356.

(e) The amendments made to this section by the act adding this subdivision shall become operative on July 1, ~~2014~~ **2016**.

**Section 15893 of the Welfare and Institutions Code is amended to read:**

**15893.** (a) There is hereby continued in existence in the State Treasury a special fund known as the Major Risk Medical Insurance Fund that is, notwithstanding Section 13340 of the Government Code, continuously appropriated to the department for the purposes of funding health care services for children, seniors, persons with disabilities, and dual eligibles in the Medi-Cal program, specified in Section 15894, Section 10127.16 of the Insurance Code, and Section 1373.622 of the Health and Safety Code.

(b) The fund shall also be available to cover expenditures for purposes specified in Section 15894 of the Welfare and Institutions Code, Section 10127.16 of the Insurance Code, and Section 1373.622 of the Health and Safety Code.

~~(b) Funds may be deposited in the Major Risk Medical Insurance Fund from one or more of the following accounts in the Cigarette and Tobacco Products Surtax Fund:~~

~~(1) The Hospital Services Account.~~

~~(2) The Physician Services Account.~~

~~(3) The Unallocated Account.~~

**Section 15893.5 of the Welfare and Institutions Code is repealed as follows:**

**~~15893.5 Notwithstanding Section 15893 (a), funds placed in the Major Risk Medical Insurance Fund pursuant to Section 1341.45 of the Health and Safety Code shall not be continuously appropriated.~~**

**Section 15894 of the Welfare and Institutions Code is amended to read:**

**15894.** (a) Except as provided in Section 15894.5, the department shall authorize the expenditure of money in the fund to cover program expenses, including program expenses that exceed subscriber contributions, and to cover expenses relating to Section 10127.16 of the Insurance Code, ~~or to~~ Section 1373.622 of the Health and Safety Code, and health care services for children, seniors, persons with disabilities, and dual eligibles in the Medi-Cal program. The department shall determine the amount of funds expended for each of these purposes, taking into consideration the requirements of this chapter, Section 10127.16 of the Insurance Code, and Section 1373.622 of the Health and Safety Code.

(b) Following consultation with a health care service plan or health insurer, if the department and the health care service plan or health insurer have not agreed to a final reconciliation of the amount to be expended from the fund or to be reimbursed to the fund, the department shall give written notice of its determination to the health care service plan or health insurer of the final reconciliation amount, as determined by the department. The health care service plan or health insurer shall remit payment to the department within 60 days of the date of notice from the department. If payment is not received, interest shall accrue in the amount of 7 percent per annum. The department may offset the amount to be reimbursed to the fund against any other payments owed to the health care service plan or health insurer by the department, or may negotiate a payment plan with the health care service plan or health insurer for full payment, and in that case may waive interest accrual as long as payment from the health care service plan or health insurer is made in accordance with the payment plan. This subdivision shall control over any conflict or ambiguity between this subdivision and the provisions of Section 1373.622 of the Health and Safety Code, Section 10127.16 of the Insurance Code, Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, or this chapter.

**Section 15895.5 of the Welfare and Institutions Code is repealed as follows:**

**~~15895.5. The department shall establish a reserve which is sufficient to prudently operate the program.~~**